

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

MEYNARD DESIGNS, INC. AND EARTH,  
INC.

Plaintiffs and  
Counterclaim-Defendants,

v.

EARTH PRODUCTS INC.

Defendant and  
Counterclaim-Plaintiff.

EARTH PRODUCTS INC.

Third-Party Plaintiff and  
Counterclaim-Defendant,

v.

PLANET, INC.

Third-Party Defendant and  
Counterclaim-Plaintiff.

CIVIL ACTION NO. 05 cv 11781 NMG

**WITHDRAWAL OF MOTION TO IMPOUND  
(DOCKET #57) FILED ON OCTOBER 23, 2007**

DEFENDANT EARTH PRODUCTS INC. ("Earth Products") hereby withdraws its Assented To Motion To Impound Materials Cited In Earth Products' Motion For Partial Summary Judgment And Designated As Confidential By Plaintiffs (the "Motion"), filed on October 23, 2007 (Dkt. No. 57).

Under the parties' Stipulated Protective Order (Dkt. No. 30), all transcripts of deposition testimony from former employees of parties are automatically designated as Attorneys' Eyes Only for 20 days following receipt of the deposition transcript. The deposition transcript of John

Chopak, a former president of Michel Meynard, Inc., the predecessor to plaintiff Meynard Designs, Inc., which is quoted and referenced in Earth Products' Motion for Summary Judgment of Invalidity of United States Trademark Registrations 2,249,826 and 2,199,118, was inadvertently excluded from the Motion.

Earth Products will file a new Motion to Impound Materials Cited in Earth Products' Motion for Partial Summary Judgment of Invalidity of United States Trademark Registrations 2,249,826 and 2,199,118, and Designated as Confidential Under the Parties' Stipulated Protective Order to include the Chopak deposition transcript among the materials requested to be impounded.

Dated: October 25, 2007

By: /s/ Derrick W. Toddy  
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**CERTIFICATE OF SERVICE**

I certify that the foregoing WITHDRAWAL OF MOTION TO IMPOUND (DOCKET #57) FILED ON OCTOBER 23, 2007 is being filed through the Court's electronic filing system, which serves counsel for other parties who are registered participants as identified on the Notice of Electronic Filing (NEF).

Counsel for other parties are also being served by electronic mail on the date of electronic filing.

Dated: October 25, 2007

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